

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

RICK ALLEN WOOD SR.,

Defendant and Appellant.

A154483

(Sonoma County
Super. Ct. No. SCR709116)

Appellant Rick Allen Wood Sr. appeals a judgment entered upon his plea of no contest to possession of methamphetamine, being under the influence of a controlled substance, and possession of drug paraphernalia. He argues on appeal that the trial court erred in denying his motion to suppress evidence obtained during the search of his vehicle. We shall affirm the judgment.

BACKGROUND

On October 6, 2017, Deputy Kevin O'Brien and field training officer Deputy Rodriguez of the Sonoma County Sheriff's Office responded to an anonymous call about a man who was slumped over his steering wheel on the shoulder of Highway 12. Once they arrived, they saw Wood pacing back and forth next to a car that was parked on the shoulder and touching the guardrail. Deputy O'Brien asked Wood what happened to his car, and Wood said the transmission had gone out. Deputy O'Brien asked Wood if he had any identification, and whether he was on probation or parole. Wood gave Deputy O'Brien his identification and initially said that he was not on probation or parole.

As Wood handed Deputy O'Brien his identification, he said that he had a knife attached to his belt. Deputy O'Brien removed the knife and said he would hold onto it until the end of their contact. Deputy O'Brien noticed that Wood was "kind of fidgety" and was mumbling his words, which over the course of the interaction led the deputies to believe Wood was under the influence of a stimulant. Deputy O'Brien initially testified that he did not think Wood was under the influence "right away." Later, in response to further questioning, he said that he became suspicious that Wood might be under the influence of a controlled substance when he first "went up and started contacting him," although he did not start investigating Wood's drug use right away.

Deputy Rodriguez again asked Wood whether he was on probation or if he had ever been arrested, and Wood then replied that he was a registered sex offender. Deputy Rodriguez told Wood to walk towards the front of the patrol car, and Deputy O'Brien ran his information through sheriff's dispatch. Deputy O'Brien took Wood's wallet and placed it on the roof of the patrol car with Wood's identification, and prepared to pat search him. He handcuffed Wood and informed him that he was detained until the pat search was complete and they heard back from dispatch. As they waited, the deputies questioned Wood about his prior drug use, and he admitted to using marijuana and methamphetamine in the past, most recently three weeks ago.

After dispatch informed the deputies that Wood was compliant with his sex offender registration requirements under Penal Code section 290,¹ Deputy Rodriguez asked Wood if a drug test would show that he was under the influence. Wood said he did not know. The deputies then investigated further whether Wood was under the influence. They found that Wood's perception of time was sped up, consistent with a person who is under the influence of a controlled substance. Wood's face was gaunt, his eyelids were slightly fluttering, and a vein in his neck was pulsating. Deputy O'Brien concluded that Wood was currently under the influence of a stimulant. He asked Wood if he had used methamphetamine recently, and Wood admitted he had done so earlier that day. Up until

¹ All undesignated statutory references are to the Penal Code.

then, the entire contact had lasted 20 minutes. In response to questions, Wood admitted he had drug paraphernalia in his car and consented to a search. The search revealed several items of drug paraphernalia as well as a bag containing methamphetamine.

The Sonoma County District Attorney filed an information charging Wood with one felony count of possession of methamphetamine (Health & Saf. Code, § 11377, subdivision (a)) (count one); one misdemeanor count of being under the influence of a controlled substance (Health & Saf. Code, § 11550 subdivision (a)) (count two); and one misdemeanor count of possession of drug paraphernalia (Health & Saf. Code, § 11364, subdivision (a)) (count three). The information alleged that Wood had suffered three prior convictions of serious or violent felonies (§§ 1192.7, 667.5, subd. (c), 667, subds. (d) & (e), & 1170.12, subd. (b)).

Wood moved to suppress the evidence obtained during the search under section 1538.5. The court denied the motion. Wood entered a plea of no contest, admitting to his strike priors. The court sentenced him to three years' probation, the violation of which would result in a three-year prison term. Wood filed a timely notice of appeal.

DISCUSSION

“As the finder of fact in a proceeding to suppress evidence . . . the superior court is vested with the power to judge the credibility of the witnesses, resolve any conflicts in the testimony, weigh the evidence and draw factual inferences in deciding whether a search is constitutionally unreasonable.” (*People v. Woods* (1999) 21 Cal.4th 668, 673 (*Woods*).) “As the trial court has ruled on the motion to suppress, after holding an evidentiary hearing pursuant to the motion, all factual conflicts must be resolved in the manner most favorable to the court's disposition on the motion.” (*People v. Martin* (1973) 9 Cal.3d 687, 692.) “But while we defer to the superior court's express and implied factual findings if they are supported by substantial evidence, we exercise our independent judgment in determining the legality of a search on the facts so found.” (*Woods*, at pp. 673–674.)

Wood and respondent disagree about when the detention began. Wood argues that it began soon after the deputies' arrival, while respondent contends that it did not begin until the deputies handcuffed Wood. A detention occurs when "the officer, by means of physical force or show of authority, has in some way restrained the liberty of a person" (*Terry v. Ohio* (1968) 392 U.S. 1, 19, fn. 16), or when "a reasonable person would believe that he or she is not 'free to leave.'" (*Florida v. Bostick* (1991) 501 U.S. 429, 435 (*Bostick*)). Courts must look at the totality of the circumstances in making this analysis. (*Id.* at p. 437.) "[E]ven when officers have no basis for suspecting a particular individual, they may generally ask questions of that individual" (*id.* at pp. 434–435; see *INS v. Delgado* (1984) 466 U.S. 210, 216) or "ask to examine the individual's identification" without turning a consensual encounter into a seizure. (*Bostick, supra*, 501 U.S. at pp. 4340–435; *United States v. Mendenhall* (1980) 446 U.S. 544, 555.)

Based on these standards, the detention began once the deputies took Wood's identification, knife, and wallet because a reasonable person would not have felt free to leave without their property. Before then, Deputies O'Brien and Rodriguez were engaging in a consensual encounter with Wood. They asked Wood questions about the status of his car and his plans for getting it repaired, but did not indicate that he was not free to leave. Though they asked Wood for his identification early on, this alone is not enough to constitute a detention. (*People v. Leath* (2013) 217 Cal.App.4th 344, 353; *Bostick, supra*, 501 U.S. at pp. 434–435.) Up until the point the deputies took control of Wood's property, nothing indicates that Wood felt compelled to stay there, other than the obvious fact that his car had broken down.

We reject Wood's argument that the detention was unjustified. To determine the lawfulness of a detention, courts look to whether the officer "can point to specific articulable facts that, considered in light of the totality of the circumstances, provide some objective manifestation that the person detained may be involved in criminal activity." (*People v. Souza* (1994) 9 Cal.4th 224, 231.) Moreover, "where an officer has a reasonable basis to think that the person stopped poses a present physical threat to the officer or others, the Fourth Amendment permits the officer to take

“necessary measures . . . to neutralize the threat.” ’ ’ (*People v. Pilster* (2006) 138 Cal.App.4th 1395, 1405–1406, citing *United States v. Newton* (2d Cir. 2004) 369 F.3d 659, 674.) Officers can “handcuff suspects where there is reasonable cause to believe the suspect is potentially dangerous and police are conducting an on-the-scene investigation to dispel or confirm their suspicions quickly.” (*Pilster*, at p. 1405; see *People v. Celis* (2004) 33 Cal.4th 667, 676; *United States v. Fornia-Castillo* (1st Cir. 2005) 408 F.3d 52, 64–65.) The issue is whether the restraint employed exceeded what was reasonably necessary. (*People v. Johnson* (1991) 231 Cal.App.3d 1, 14.)

Here, there was reasonable cause for the officers to detain Wood. The deputies were called to the scene because someone was slumped over a steering wheel. When they arrived they saw Wood pacing back and forth by his vehicle, appearing fidgety, discolored, and somewhat incoherent. Wood said that he was armed with a knife and that he was a registered sex offender. In the totality of the circumstances it was not unreasonable for the deputies to detain Wood, to restrain him while they checked his identification and registration status, and to investigate whether he was under the influence.

Wood argues that even if the detention was justified, it was unduly prolonged. We disagree. “[A] police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution's shield against unreasonable seizures. A seizure justified only by a police-observed traffic violation, therefore, ‘become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission’ of issuing a ticket for the violation.” (*Rodriguez v. United States* (2015) 575 U.S. ____ [135 S.Ct. 1609, 1612, 191 L.Ed.2d 492, 496], citing *Illinois v. Caballes* (2005) 543 U.S. 405, 407.) However, during a detention officers are allowed to engage in investigations that are unrelated to the initial reason for detention, may they do not lengthen the amount of time that would otherwise be needed. (*Rodriguez*, at p. 1614.)

Here, the deputies did not pull Wood over for a traffic violation, but approached him to check on the welfare of someone slumped over a steering wheel. Deputy O’Brien testified that he was aware of the possibility that the driver might be under the influence

of alcohol or drugs. From the beginning of the contact Deputy O'Brien saw signs that Wood was not fully coherent and might be under the influence of a controlled substance: Wood's fidgeting and rambling, and the gauntness of his face. The deputies asked questions regarding Wood's sobriety and past drug use, which prompted Wood's statements about using methamphetamine three weeks previously. These specific and articulable facts justified the continued investigation.

The deputies noticed additional signs of intoxication as the contact continued, such as Wood's fluttering eyelids, the vein pulsing in his neck, and his inability to estimate time accurately. Wood then admitted using methamphetamine earlier that day. In light of these unfolding circumstances, Deputies O'Brien and Rodriguez were justified in holding Wood rather than releasing him back onto the road. The entire contact between the deputies arriving and the discovery that Wood was intoxicated lasted 20 minutes. (See *United States v. Sharpe* (1985) 470 U.S. 675, 686 [20 minute detention was considered reasonable where the agent conducted a diligent investigation]; see also *People v. Espino* (2016) 247 Cal.App.4th 746, 756–757 [officers properly extended a detention after a traffic stop where they had evidence defendant was not in compliance with his § 290 registration, had been involved in selling drugs and guns, and had made furtive movements].) For these reasons the detention was not unreasonably prolonged.

Wood analogizes to *Barber v. Superior Court* (1973) 30 Cal.App.3d 326, 328–330, in which an officer unconstitutionally prolonged the detention of a couple sleeping in their car after the couple said they did not need assistance, and *Willett v. Superior Court of San Diego County* (1969) 2 Cal.App.3d 555, 557, in which an officer stopped a vehicle for driving with a broken tail light and extended the detention for 40 minutes. In both *Barber* and *Willett*, the officers had no additional reason for prolonging the detention. Here, on the other hand, Wood manifested signs consistent with the use of a controlled stimulant during his interaction with the deputies, which provided them with additional reasonable suspicion to prolong the detention.

We conclude that Wood's detention was not unreasonable, and that the trial court properly denied his motion to suppress evidence.

III. DISPOSITION

The judgment is affirmed.

TUCHER, J.

WE CONCUR:

POLLAK, P. J.

BROWN, J.

People v. Wood (A154483)